

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	
Investigation of Rider CPP of	:	
Commonwealth Edison Company, and	:	
Rider MV of Central Illinois Light	:	06-0800
Company d/b/a AmerenCILCO, of	:	
Central Illinois Public Service	:	
Company d/b/a AmerenCIPS, and of	:	
Illinois Power Company d/b/a	:	
AmerenIP, pursuant to Commission	:	
Orders regarding the Illinois Auction.	:	

ORDER INITIATING INVESTIGATION

By the Commission:

Introduction

The Illinois Commerce Commission (Commission) initiates this proceeding to review the Illinois Auction process as a result of findings it made in orders entered in Docket No. 05-0159 and in Docket Nos. 05-0160, 05-0161, and 05-0162 (Consolidated) on January 24, 2006. In those proceedings (collectively referred to as the "Procurement Dockets"), the Commission approved tariffs, with modifications, that created an auction process (the "Illinois Auction") under which the four largest electric utilities in Illinois purchase the electricity used to serve most of their retail electric service customers on and after January 2, 2007. The basis and purposes of this proceeding are described more fully below.

Docket No. 05-0159

On February 25, 2005, Commonwealth Edison Company (ComEd) filed with the Commission proposed rate sheets prescribing a competitive procurement process ComEd would use to procure electricity at wholesale, including an auction the results of which would determine the wholesale prices ComEd would pay for the electricity it would supply to various classes of its retail customers. The proposed rates also described the methodology that ComEd would use to determine retail charges to recover the costs that ComEd incurs for wholesale electricity procurement.

The Commission suspended ComEd's proposed tariffs on March 9, 2005, thereby initiating Docket No. 05-0159. On January 24, 2006, the Commission

entered its Order in Docket No. 05-0159, cancelling the proposed tariffs as filed, and ordering them into effect with modifications as described in that Order. In addition to the many other issues it considered in that case, the Commission's Order addressed the need for a formal review of the Illinois Auction after it is conducted:

Having reviewed the recommendations of the parties, the Commission agrees with IIEC that a docketed review of the auction process should be conducted on a periodic basis. Given the significance of the auction process and the fact that it is untried in Illinois, a formal review of it should not be delayed for three years. Further, as IIEC points out, New Jersey, the state with several years of auction experience, conducts an annual review to evaluate the process.

The Commission agrees with IIEC that formal reviews should be conducted to evaluate the auction. The Commission will conduct formal reviews of the first three auctions and then make a determination as to future frequency.

Order entered January 24, 2006, in Docket No. 05-0159, p. 154

Docket Nos. 05-0160, 05-0161, and 05-0162 (consolidated)

On February 28, 2005, Central Illinois Light Company, doing business as AmerenCILCO; Central Illinois Public Service Company, doing business as AmerenCIPS, and Illinois Power Company, doing business as AmerenIP (jointly "the Ameren Companies" or "Ameren") filed proposed rate sheets prescribing a competitive procurement process they would use to procure electricity at wholesale. As with the tariffs that ComEd proposed, the Ameren Companies' proposed rates described the methodology to be used to determine retail charges to recover the costs Ameren incurs for wholesale electricity procurement. The Ameren proposal also included an auction, the results of which would determine the wholesale prices Ameren would pay for the electricity it would supply to various classes of its retail customers.

The Commission suspended the proposed Ameren tariffs on March 9, 2005, thereby initiating Docket Nos. 05-0160 (pertaining to AmerenCILCO), 05-0161 pertaining to (AmerenCIPS), and 05-0162 (pertaining to AmerenIP). The three cases were consolidated on April 8, 2005. On January 24, 2006, the Commission entered its Order in those consolidated cases. That order also addressed the need for a formal review of the Illinois Auction:

Having reviewed the recommendations of the parties, the Commission agrees with IIEC that a docketed review of the auction process should be conducted on a periodic basis. Given the

obvious significance of the auction and the fact that it is untried in Illinois, a formal review of it should be included in the process, particularly in the early years. Further, as IIEC points out, New Jersey, the state with several years of auction experience whose auction served in many respects as the model for the one proposed by Ameren and ComEd, conducts an annual review to evaluate the process.

As noted above, Ameren and IIEC reached an agreement with respect to the formal review of the Ameren auction process. The Commission finds that the review schedule contemplated therein should be adopted with a slight modification. To maintain consistency with what the Commission adopted in the ComEd companion proceeding (Docket 05-0159) a formal review will be conducted after the first three auctions (rather than two), and the Commission will then make a determination as to future frequency.

Order entered January 24, 2006, in Docket Nos. 05-0160, 05-0161, and 05-0162, Consolidated; pp. 157-158

Reports of the Auction Manager and of the Commission Staff

The tariffs that created the Illinois Auction, which were approved by the Commission with modifications in the Procurement Dockets, are Rider CPP of Commonwealth Edison Company (ILL.C.C. No. 4, First Revised Sheet No. 244 through Original Sheet No. 294.38), and Rider MV of Central Illinois Light Company (Ill. C. C. No. 18, 1st Revised Sheet No. 27 through Original Sheet No. 27.086); of AmerenCIPS (Ill. C. C. No. 16, 1st Revised Sheet No. 27 through Original Sheet No. 27.086), and of AmerenIP (Ill. C. C. No. 35, 1st Revised Sheet No. 27 through Original Sheet No. 27.086). Each set of tariffs provides for two public reports following the Illinois Auction: one by the Auction Manager, and one by the Commission Staff. The public reports of the Auction Manager and of the Commission Staff are described in the tariffs as follows:

Public Report Of The Auction Manager

The Public Report of the Auction Manager is made available no earlier than thirty (30) calendar days prior to the date that the Company is scheduled to begin procuring full requirements electric supply in accordance with the [supplier forward contracts] executed following the applicable Dates of Declaration of a Successful Result, as described [elsewhere in the tariff]. This report provides a summary of the events and activities that occurred during the course of the auction process, with particular emphasis on how various activities and events affected the overall success of the process. It also includes a list of the winning bidders, number of

tranches won, and the final auction price for each product. The report also details any suggestions for improvement identified by the Auction Manager and any recommendations the Auction Manager has for future implementation of the auction process. This report is made available to any interested entity and is posted on a publicly accessible web site.

Public Report Of The Staff

In accordance with the ICC's Order entered in Docket No. 05-0159, the Public Report of the Staff is made available no earlier than thirty (30) calendar days prior to the date that the Company is scheduled to begin procuring full requirements electric supply in accordance with the [supplier forward contracts] executed following the applicable Dates of Declaration of a Successful Result, as described [elsewhere in the tariff]. This report provides an assessment of the conduct of the Illinois Auction, including a review of the Auction Manager's actions. The report also details any suggestions for improvement identified by the Staff and any recommendations the Staff has for future implementation of the auction process. This report is made available to any interested entity and is posted on a publicly accessible web site.

Commonwealth Edison Company, ILL. C. C. No. 4, 1st Revised Sheet No. 269 [the tariffs of the Ameren Companies are substantially similar—see Rider MV of Central Illinois Light Company (Ill. C. C. No. 18, 1st Revised Sheet No. 27.034); of AmerenCIPS (Ill. C. C. No. 16, 1st Revised Sheet No. 27.034), and of AmerenIP (Ill. C. C. No. 35, 1st Revised Sheet No. 27.034)]

The Public Report of the Auction Manager was released on December 6, 2006, and the Public Report of the Staff was released the same day. As required, these public reports detail suggestions for improvement, and recommendations for the future implementation of the auction process. The Commission is making both of these public reports a part of the record of this proceeding.

Statutory Provision

Section 9-250 of the Act provides as follows:

Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges, or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, or that the rules, regulations, contracts, or practices or any of them, affecting such rates or other charges, or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in

any way in violation of any provisions of law, or that such rates or other charges or classifications are insufficient, the Commission shall determine the just, reasonable or sufficient rates or other charges, classifications, rules, regulations, contracts or practices to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

The Commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate or other charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates or other charges, classifications, rules, regulations, contracts and practices, or any thereof of any public utility, and to establish new rates or other charges, classifications, rules, regulations, contracts or practices or schedule or schedules, in lieu thereof.

220 ILCS 5/9-250

Commission Conclusions

Consistent with its orders in the Procurement Dockets, the Commission initiates this proceeding as a docketed review of the auction process. In the terms of Section 9-250 of the Act, the Commission is initiating a hearing upon its own motion in the wake of the conduct of the Illinois Auction to determine whether Rider CPP of ComEd, and Rider MV of each of the Ameren Companies, “are unjust, unreasonable, discriminatory or preferential, or in any way in violation of any provisions of law.” The Commission has received the public reports of the Auction Manager and of the Staff, and is of the opinion that the reviews, recommendations, and suggestions set forth in those reports are appropriate examples of the types of issues to be considered in this docket. The Commission will consider testimony and briefs filed in this proceeding in order to determine whether any changes should be made in the tariffs of ComEd and the Ameren Companies that embody the auction process. The Commission intends to order any material changes in the tariffs in time for the changes to be implemented in a timely manner prior to the next auction, which we understand is to take place no later than January 2008.

Without limiting the authority of the Administrative Law Judge(s) to manage this proceeding, we do wish to observe that prehearing conferences, workshops, and other collaborative efforts might be particularly appropriate in a case such as this to define with precision, and narrow where possible, the issues to be considered in the more formal phases of the docket.

The Commission also wishes to emphasize that in initiating this proceeding, we are not inviting wholesale relitigation of issues the Commission disposed of in its orders in the Procurement Dockets. Rather, it is our intention

that the issues in this case be directly related to matters that have come to the attention of the parties as a result of the conduct of the auction process itself, or that relate to proposed changes to the auction process to address facts or circumstances that are new or different from those considered in the Procurement Dockets.

Findings and Ordering Paragraphs

The Commission, having reviewed the record in this proceeding, which consists of the public reports of the Auction Manager and of the Staff, and being fully advised in the premises, is of the opinion and finds as follows:

- (1) that it has jurisdiction over the subject matter of this proceeding and the parties hereto;
- (2) the recitals set forth in the prefatory portion of this order are hereby adopted as findings of fact;
- (3) the public reports of the Auction Manager and of the Staff should be made a part of the record of this proceeding;
- (4) a docketed review should be initiated under Section 9-250 of the Public Utilities Act, of Rider CPP of ComEd and Rider MV of each of the Ameren Companies, to determine whether the Commission should order any changes in the auction process embodied in those tariffs, and that the proceeding should be of the scope prescribed in the prefatory portion of this Order.

IT IS THEREFORE ORDERED that a docketed review is hereby initiated under Section 9-250 of the Public Utilities Act, of Rider CPP of ComEd and Rider MV of each of the Ameren Companies, to determine whether the Commission should order any changes in the auction process embodied in those tariffs, and that the proceeding shall be of the scope prescribed in the prefatory portion of this Order.

IT IS FURTHER ORDERED that the docketed review initiated herein shall be completed so as to permit the Commission to order any material changes in the tariffs in time for the changes to be implemented in a timely manner prior to the next auction.

IT IS FURTHER ORDERED that the public reports of the Auction Manager and of the Staff are hereby made a part of the record of this proceeding.

IT IS FURTHER ORDERED that a copy of this Order be served on all parties of record to Docket No. 05-0159, and on all parties of record to Docket Nos. 05-0160, 05-0161, and 05-0162, Consolidated; electronic service to the e-

mail addresses of such parties as most recently provided to the Commission in the context of those dockets will be deemed to be sufficient for purposes of this ordering paragraph.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

By order of the Commission this 20th day of December, 2006.

(SIGNED) CHARLES E. BOX

Chairman